

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.) No. 4:23-CR-505 AGF PLC
)
MARCELLIS BLACKWELL,)
)
Defendant.)

UNITED STATES OF AMERICA'S
MOTION TO STRIKE SURPLUSAGE FROM INDICTMENT

COMES NOW the United States of America, by and through its attorneys, Sayler A. Fleming, United States Attorney for the Eastern District of Missouri, and Christine Krug, Assistant United States Attorney for said District, and files its Motion to Strike Surplusage from the Second Superseding Indictment.

Request to strike surplusage from Second Superseding Indictment

The Government moves to strike surplusage from the Second Superseding Indictment as follows:

1. Within Counts 3, 5, 8, 10, 12, 14, 16, 19, 21, 23, 25, 27, 29, 31, and 33: Strike the words "turning off his department-issued body worn camera before concluding his interaction with [initials of respective victim] and";
2. Count 35 which is singularly based upon that language is the subject of a motion to dismiss, filed contemporaneously with this motion.

An indictment may be amended by striking out allegations that are not necessary to establish the violation of a statute if the remaining allegations are sufficient to charge a crime.

United States v. Wells, 127 F.3d 739, 743 (8th Cir. 1997); *United States v. Nabors*, 45 F.3d 238, 240 (8th Cir. 1995); *United States v. McIntosh*, 23 F.3d 1454, 1457 (8th Cir. 1994). Furthermore, this Court may strike unnecessary allegations without re-presenting the indictment to the grand jury. *United States v. Miller*, 471 U.S. 130, 144-145 (1985); *United States v. DeRosier*, 501 F.3d 888, 897 (8th Cir. 2007); *McIntosh*, 23 F.3d at 1457-1458.

The aforementioned language in Counts 3, 5, 8, 10, 12, 14, 16, 19, 21, 23, 25, 27, 29, 31, and 33 provided an alternative option of proving those counts and is unnecessary.

Proposed Indictment

The proposed Indictment which reflects the removal of the identified surplusage and Count 35 from the Second Superseding Indictment is attached hereto as Exhibit 1.

Wherefore, the United States respectfully requests that the Court grant the motion to strike surplusage from the Second Superseding Indictment, and moving forward, for purposes of trial matters, operate using the redacted version of the Indictment attached hereto as Exhibit 1.

Respectfully submitted,

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United States Attorney

/s/ Christine H. Krug
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CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2025, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system all counsel of record.

/s/ Christine H. Krug
CHRISTINE H. KRUG, #42586MO
ASSISTANT UNITED STATES ATTORNEY